

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)
)
Plaintiff,) 4:07CR3165
)
v.)
)
JOSE RAMIREZ-DOMINGUEZ,) **MEMORANDUM
 AND ORDER**
)
Defendant.)

Jose Ramirez-Dominguez (Ramirez) has filed a 2255 motion. (Filing 51.¹) That motion is before me for initial review. A section 2255 motion is designed to give a person who has been convicted in federal court the opportunity challenge his or her conviction and sentencing on the grounds that the conviction or sentencing violated the Constitution, laws or treaties of the United States.

The pending motion is deficient. When asked to state the facts supporting his claim that he is being held in violation of the Constitution, laws, or treaties of the United States, Ramirez wrote: "I do not have grounds, because I signed Plea Agreement." (Filing 51 ¶ 12.) This is plainly insufficient. Indeed, if read literally, such a statement is an admission that Ramirez has no claim.

I am reluctant to dismiss the motion without giving Ramirez another chance to more clearly state his position. If Ramirez claims that his rights were violated when he was prosecuted and sentenced in this court, he must state facts supporting such a claim. That he signed a plea agreement does not necessarily preclude him from making a claim that his rights were violated. Therefore,

¹I note that the government has filed a motion to reduce Ramirez' sentence (filing 49). That motion will not be ready for decision until the government notifies me that the defendant's cooperation is complete.

IT IS ORDERED that:

1. Ramirez may file an amended motion pursuant to 28 U.S.C. § 2255. He shall have until the close of business on Friday, June 19, 2009 to do so.
2. The Clerk shall send Ramirez another form for filing a 2255 motion. If Ramirez wants to submit an amended motion, he should thoroughly complete the form provided by the Clerk's office and file that form in this court on or before June 19, 2009. In particular, Ramirez should take care to state the facts regarding any claim that his rights were violated when he was prosecuted and sentenced in this court. Failure to do so may result in the dismissal with prejudice of any motion filed pursuant to section 2255.
3. My chambers shall call this matter to my attention for further review on June 22, 2009.

DATED this 14th day of May, 2009.

BY THE COURT:

s/Richard G. Kopf
United States District Judge